

### **Remarks**

Reconsideration of the present application is respectfully requested. No new matter has been added. The Office Action dated August 1, 2005 (the "Office Action") recites that claims 1-40 are pending in the application. By the amendment mailed May 17, 2004, claims 1-20 have been cancelled, and claims 21-40 were added. By virtue of this amendment, claims 21 and 33 have been amended. Accordingly, claims 21-40 are pending herein. Entry of this amendment, reconsideration of the claims, and allowance of this application are respectfully requested.

In the Office Action, the examiner applied three references to reject all claims. In particular, the Examiner premised rejections of claims 33-36 and 39 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,385,301 issued to Nolting et al. ("Nolting '301"). The Examiner further premised rejections of claims 21-28 and 31 under 35 U.S.C. § 103(a) as being unpatentable over Nolting '301 in view of U.S. Patent No. 6,298,123 issued to Nolting et al. ("Nolting '123"). In addition, the Examiner premised rejections of claims 29-30 and 32 under 35 U.S.C. § 103(e) as being unpatentable over Nolting '301 in view of Nolting '123 and further in view of U.S. Patent No. 5,872,911 issued to Berg ("Berg"). Lastly, the Examiner premised rejections of claims 37-38 and 40 under 35 U.S.C. § 103 (a) as being unpatentable over Nolting '301 in view of Berg.

### **35 U.S.C. § 102 (e) Rejections**

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdeggal Brothers v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as contained in the . . . claim." *Richardson v. Suzuki Motor*

*Co.*, 868 F.2d 1226 (Fed. Cir. 1989). *See also*, MPEP §2131. It is not enough that the prior art reference discloses all claimed elements in isolation. Rather, anticipation requires each and every element of the claimed invention shown in as complete detail and arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). As Nolting '301 fails to describe, either expressly or inherently, each and every element as set forth in the rejected claims, Applicants traverse this rejection.

The present invention is a method of analyzing the traffic patterns of vendor platforms for network-traffic-management purposes and is particularly useful for forecasting the future impact of possible increases or decreases in customer traffic. As discussed above, Nolting '301 must describe each and every element of the present invention in as complete detail and arranged in the same order to anticipate the present invention under 35 U.S.C. § 102(e). *Id.* However, claims 33-36 and 39, as amended herein, contain numerous limitations not found in Nolting '301.

In particular, claim 33, as amended herein claims the steps of "comparing said parameters of said first and second platforms with a projected change in customer traffic; and forecasting one of (i) network resources required and (ii) cost effectiveness based on said comparison." The Office Action recognizes that "Nolting et al '301 did not specifically suggest of comparing said parameters with a projected change in customer traffic; and forecasting one of (i) network resources required and (ii) cost effectiveness based on said comparison." Therefore, unless the examiner's positions have changed, the anticipation findings should be withdrawn.

The Examiner also cites Nolting '301 for teaching "accessing first and second call processing platforms." The specification of the present invention defines a call processing platform as "a computer or system of computers executing proprietary software to accomplish its

function, which is to collect the CDRs 3 [referring to FIG. 1 of the drawings] for billing purposes.” Johnson, pg. 9 lines 18-21. Yet, claim 1 of Nolting ‘301 teaches “accessing detailed data records for calls processed through a telecommunication network in a table of a database.” Thus, Nolting ‘301 fails to disclose the inventive step of accessing a computer, or system of computers, for call records. Nolting ‘310, col. 5, lines 4-6.

In addition, Nolting ‘301 fails to teach “copying a call detail record for each call processed by each of said first and second platforms into a database.” None of the references provided by the examiner in the Office Action suggest copying records into a database. Nolting ‘301 merely accesses call records in a relational database. Nolting ‘301, col. 5, line 56-57; *See also* Nolting ‘301, col. 7, lines 49-52. Therefore, copying CDRs from call processing platforms directly into a database is not shown in Nolting ‘301.

Moreover, claim 33, as amended herein, teaches “comparing said selected set of call parameters between the first and second platforms to forecast the adequacy of network equipment and network cost effectiveness.” Nolting ‘301 fails to disclose a process that compares call detail parameters obtained from multiple call processing platforms. Since Nolting ‘301 fails to teach a method that accesses call processing platforms, copies CDRs into a database, or compares call parameters to forecast resource needs and network economics, Nolting ‘301 cannot anticipate the present invention. Lacking these and other limitations, the rejection of claim 33 under § 102 as being anticipated by Nolting ‘301 is overcome.

Claims 34, 35, 36, and 39, all of which depend from claim 33, are submitted to be allowable, at a minimum, by virtue of their dependence from an allowable claim. Therefore, the rejections of claims 34, 35, 36, and 39 under § 102 as being anticipated by Nolting ‘301 are overcome.

### **35 U.S.C. § 103(a) Rejections**

The basic requirements of a *prima facie* case of obviousness are summarized in MPEP § 2143 through § 2143.04. In order “[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success [in combining the references]. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)”. See MPEP § 2143. Further, in establishing a *prima facie* case of obviousness, the initial burden is placed on the Examiner. “To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 USPQ 972, 972, (Bd. Pat App. & Inter. 1985).” *Id.* See also MPEP § 706.02(j) and § 2142.

The claimed processes of the present invention are not disclosed, or suggested by Nolting ‘301 in view of Nolting ‘123. The Office Action cited Nolting ‘301 for teaching the accessing, copying, sorting, extracting, and aggregating elements of claim 21 and acknowledges that the reference “did not specifically comparing said parameters with a projected change in customer traffic; and forecasting one of (i) network resources required and (ii) cost effectiveness based on said comparison.” Further, the Examiner asserts that Nolting ‘123 shows these missing

steps. But it does not. Nolting '123 discloses system and method for accumulating call data to forecast network economics, not network resources. *See* Nolting '123, col. 10, lines 34-43. The present invention is instead directed to forecasting network resource requirements. Thus, because neither Nolting '301 or Nolting '123 singly, or in combination, show all of the claimed limitations of claim 21, the rejection of claim 21 under § 103 as being unpatentable over Nolting '301 in view of Nolting '123 is overcome.

Moreover, claims 22-28 and 31, which depend from claim 21, are submitted to be allowable, at a minimum, by virtue of their dependence from an allowable claim. Therefore, the rejections of claims 22-28 and 31 under § 103 as being unpatentable over Nolting '301 in view of Nolting '123 are overcome.

Furthermore, Berg fails to make the present invention obvious when combined with either Nolting '301 or Nolting '123. The examiner claimed in the Office Action that Berg suggests comparing traffic capacity differences between multiple call processing platforms using graphical plots. Berg, however, discloses a system and method for monitoring a network for outages and determining which outage is the most critical to restore. Specifically, Berg deciphers network outages by receiving fault data from network equipment and comparing it to previously stored historical data. *See* Berg, col. 2, lines 1-5. While Berg discloses using graphical plots to compare fault data with historical data, Berg fails to disclose or suggest comparing traffic capacity differences between multiple call processing platforms. *See* Berg, col. 7, lines 27-39. Instead, Berg merely compares alarms received from monitoring equipment with previously stored historical data to determine which network failure to fix first. On the other hand, the present invention teaches comparing call data parameters received from multiple call processing platforms to determine network economics and network resource requirements

without comparing historical data. Therefore, the rejections of claims 29-30, 32, 37-38, and 40 under § 103 in view of Berg are overcome.

Thus, because none of Nolting '301, Nolting '123, Berg, or any of the other references as of now cited singly, or in combination show all of the claimed limitations of any of the claims, we submit that the application is now in condition for allowance.

### Conclusion

For the aforementioned reasons, Applicant believes the present application is in condition for issuance. If any issues remain that would prevent issuance of this application, the examiner is urged to contact the undersigned by telephone prior to issuing a subsequent action. The Commissioner is hereby authorized to charge any required amount, and to credit any overpayment, to Deposit Account No. 21-0765.

Respectfully submitted,



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